

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, January 12, 2017, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present
Mark I. Fisher, Chairman
Paul Katz
Ernest Fiore
Michael Strone
Steven Lowenthal
Tom Foristel

Members Absent
Paul Valentine

The Chairman called the meeting to order at 8:00 p.m.

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z16-019	12 Nelson Avenue LLC	267	11	Not Heard – Adjourned to the February Meeting
Z16-022	Marie Marino	91	21	Heard – Closed - Findings being prepared
Z16-025	Armando Carrea	871	40	Variance Granted
Z16-026	Brian & Angela Macom	803	17	Variance Granted
Z16-027	Parag & Usha Saxena	601	42	Variance Granted
Z16-028	Michael & Christine Drummey	544	50	Variance Granted
Z16-031	Frank A. Acocella	131	26	Heard – Adjourned to the February Meeting
Z16-032	Anthony Marella	391	5	Heard – Closed – Findings being prepared
Z16-033	Frank Griggs	386	35	Heard – Adjourned to the February Meeting

The next meeting was scheduled to February 9, 2017.

There being no further business to come before the Board, on a Motion duly made and seconded, the meeting was declared adjourned.

Jacqueline Sheer

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

Town Clerk's Office

THE FORMAL RECORD OF THE ABOVE PROCEEDINGS ARE THE TAPES THEREOF.

**BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK**

Calendar No. Z16-025

Date: January 12, 2017

Property Address: 309 Columbus Avenue

Block 871, Lot 40

Property Owner: Armando Carrea

WHEREAS, the applicant, the property owner, applied for a Certificate of Occupancy and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Armando Carrea filed on October 17, 2016, an application for an area variance from the Zoning Ordinance with respect to an existing wood deck. This property is located in a B Zoning District and pursuant to §235-18A(2) Accessory buildings, including garages, if detached from a main building or if connected only by an open breezeway-type structure, shall be not less than 10 feet from the main building. The separation between the wood deck and the house is 4 feet, 2 ½ inches thus requiring a variance of 5 feet 9 ½ inches; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on December 8, 2016, after due notice and publication pursuant to Town Law 267-a(7) at which the following members were present or indicated that they had listened to tapes of the meeting: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations thereunder, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have

Z16-025

Carrea

1/12/17

carefully considered:

- (A) the benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- (D) whether the requested variance is substantial;
- (E) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

1. The house and garage were constructed in 1924 and the early 1930's, respectively, and pre-date Town of Harrison records. Prior to 1932, Certificates of Occupancy were neither issued nor required by the Town. Accordingly, the existing 8 foot, 2 inch separation between the house and garage (as opposed to the 10 foot requirement of the Ordinance) is prior non-conforming. The necessity for a variance arises by virtue of the construction of a deck/balcony which decreases the separation.
2. In June 2013, applicant submitted plans to the Building Department with respect to interior renovations associated with converting the property from a one-family residence to a two-family residence. The submission included plans for the wood deck/balcony which is the subject of this application. Unfortunately, the Building Department did not at that time inform the applicant that the construction of the deck/balcony would require a variance. The deck/balcony was thereafter constructed between June 2013 and 2016 and the applicant only became aware of the need for a variance in August/September 2016 when plans for the deck/balcony using steel flich plates were approved by the Building Department. As constructed the corner of the deck/balcony is located 4 feet, 6 inches from the garage.

Z16-025
Carrea
1/12/17

3. The garage and the house have been located in their current positions for more than 80 years. The addition of this small deck/balcony does not appear to create any adverse impact on any nearby property or change the character of the neighborhood. In addition, access for emergency vehicles to both the rear of the house and the garage is available from the existing driveway.

NOW THEREFORE BE IT RESOLVED that the application for a variance with respect to an existing wood deck/balcony as indicated in plan submitted with this application be, and the same is hereby granted.

Foregoing Resolution submitted by Ernest Fiore, seconded by Paul Katz at the meeting on January 12, 2017.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Valentine

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

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HARRISON, NY


Chairman, Board of Zoning Appeals

THIS IS NOT A BUILDING PERMIT. A Building Permit must be obtained from the Building Inspector before any work is started. Other permits or approvals may also be required before work starts. If you have any questions, please call the Building Department at (914) 670-3054, 670-3055 or 670-3056.

Z16-025
Carrea
1/12/17

**BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK**

Calendar No. Z16-028

Date: January 12, 2017

Property Owner: Michael & Christine Drummey

Property Address: 612 Purchase Street

Block 544 Lot 50

WHEREAS, the applicant, the property owners, applied for a Building Permit and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Paul Shainberg, Architect filed an application on October 24, 2016 on behalf of Michael & Christine Drummey for an area variance from the Zoning Ordinance to permit a rear yard addition. The property is located in an R-1 Zoning District and is legally existing non-conforming with regard to its lot size and rear yard setback of 43 feet 11 inches. Pursuant to §235-9-B of the Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance the minimum required rear yard setback is 50 feet. The proposed addition to the existing house reduces the rear yard setback to 38 feet increasing the existing non-conformity, thus requiring a variance of 12 feet;

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m. on December 8, 2016, after due notice and publication pursuant to Town Law 267-a(7), at which the following members were present or indicated that they had listened to tapes of the meeting: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance; all those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

- (A) the benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of neighborhood or community by such grant;

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Drummey
1/12/17*

- (B) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- (D) whether the requested variance is substantial;
- (E) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

1. Applicant is proposing to construct a two story addition in the rear of the property. The existing house is legally non-conforming with respect to its rear yard setback with the house being located 43'11" at its closest point to the rear property line as compared to the 50 foot required by the Ordinance. The addition is being constructed substantially along the same line as the existing house. However, as a result of the slope of the property line, a small sliver of the proposed addition will be located approximately 5 feet closer to the rear yard property line than the existing house. The rear of the property is heavily screened from view from the adjacent property and, accordingly, we find that the granting of the variance will not create a detriment to the adjacent property.
2. There were no objections from neighbors.
3. The granting of the variance will not create an undesirable change in the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED that the application for a variance to permit an addition to the existing house as indicated in the plans submitted with this application be, and the same is hereby granted subject to the following conditions:

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plan.

Z16-028
Drumney
1/12/17

This variance shall lapse unless construction begins within one year from the date this variance is recorded in the Clerk's Office and is completed no more than two years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Michael Strone, seconded by Paul Katz at the meeting on January 12, 2017.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal
and Tom Foristel

NAYS: None

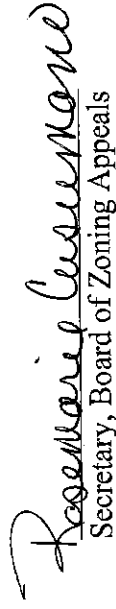
ABSTAINED: None

ABSENT: Paul Valentine

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HARRISON, NY


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Z16-028
Drumney
1/12/17

**BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK**

Calendar No. Z16-027

Date: January 12, 2017

Property Owner: Parag and Usha Saxena

Property Address: 6 Timber Trail

Block 601 Lot 42

WHEREAS, the applicant, the property owners, applied for a Building Permit and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply the Code's requirements; and

WHEREAS, Albert Pirro, filed an application on November 17, 2016 on behalf of Parag & Usha Saxena for an area variance from the Zoning Ordinance with respect to a fence and a wall being constructed in the required front yard. The property has two front yards one on Timber Trail and the second on Polly Park Road. Pursuant to Section 235-26 of the Zoning Ordinance of the Town/Village of Harrison no fence or wall in a required front yard shall have a height greater than four feet. The proposed fence and wall will have an aggregate height of 11 feet 6 inches, thus requiring a variance of 7 feet 6 inches.

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m. on December 8, 2016, after due notice and publication pursuant to Town Law 267-a(7) at which the following members were present or indicated that they had listened to tapes of the meeting: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8. 888-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

*Z16-027
Saxena
1/12/17*

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

- (A) the benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of neighborhood or community by such grant;
- (B) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- (D) whether the requested variance is substantial;
- (E) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

1. The subject property is located on a corner lot with two front yards, one on Timber Trail and the second on Polly Park Road, which is a major thoroughfare. Applicant's property line is set back from Polly Park Road by a substantial distance ranging from 15 to 40 feet due to the existence of an undeveloped Town right-of-way. The right of way has mature trees and vegetation that has been maintained by the applicant such that it is visually a contiguous part of the property. There are no sidewalks in the Town right-of-way and the right-of way slopes down toward Applicant's property. We are conditioning the grant of this variance on the continued maintenance by the applicant of the Town's right of way in the same manner as it is presently maintained.
2. Applicant has stated that need for the wall and fence which are the subject of this application is primarily related to safety concerns so as to prevent access to the property directly from Polly Park Road. In addition, the portion of the property abutting Polly Park Road has been exposed to illegally dumped refuse, leaves and debris deposited by gardeners, beer cans and condoms and salt and contaminants from snow and ice elimination vehicles clearing Polly Park Road.

Z16-027
Saxena
1/12/17

3. To address the foregoing concerns, a six foot, six inch stone wall has been erected on the Polly Park side of the property and applicant proposes to erect an additional 5 foot fence on top of the stone wall. As originally proposed, the additional fence would have been six-feet in height. However, applicant has modified its original request and reduced the height to 5 feet. As a result, the total height of the wall and fence would be 11 feet, 6 inches which requires a 7 foot, 6 inch variance.
4. We have been loath to grant height variances for over-sized fences. One of our primary concerns relates to the need to provide traffic safety. We are also mindful of the need for us not to create a precedent for future variance request except in unique circumstances. We believe that this variance presents such a unique circumstance because of the topography of the property. The property slopes away from Polly Park Road and the existing 6 feet, 6 inch fence has essentially been constructed in a ditch that is not visible from Polly Park Road. Accordingly, the stone fence has no visual impact on any adjacent property and does not create a safety concern for vehicles on Polly Park Road. Furthermore, as demonstrated by the plans filed with the application, no more than 4 feet of the additional fence will be visible from Polly Park Road. The lowest point of the residence itself is located approximately 50 feet, or five stories, above Polly Park Road. Accordingly, the fence itself will not create a so-called fortress-like appearance around the house. As a result, we find that the granting of the variance will not produce a change in the character of the neighborhood, be a detriment to nearby properties or produce an undesirable change in the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED that the application for a variance to permit construction of a five foot fence on top of an existing six foot, 6 inch stone wall in accordance with the plans submitted with this application be, and the same is hereby granted subject to the following conditions:

The granting of the foregoing variance is contingent upon the continued maintenance by the applicant, and its successors as owners of the property, of the Town right of way as though a contiguous part of the subject property and in substantially the same manner under which the subject property is currently maintained.

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

This variance shall lapse unless construction begins within one year from the date this variance is recorded in the Clerk's Office and is completed no more than two years from said date.

Z16-027
Saxena
1/12/17

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

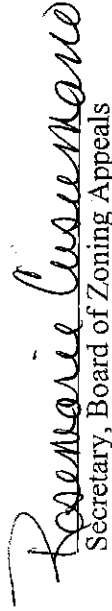
Foregoing Resolution submitted by Michael Strone, seconded by Steven Lowenthal, at the meeting on January 12, 2017.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal
and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Valentine


Secretary, Board of Zoning Appeals

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HARRISON, NY


Chairman, Board of Zoning Appeals

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In addition, the portion of the property abutting Polly Park Road had been exposed to illegally dumped refuse, leaves and debris deposited by gardeners, beer cans and condoms and salt and contaminants from snow and ice elimination vehicles clearing Polly Park Road.

Z16-027
Saxena
1/12/17

**BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK**

Calendar No. Z16-026

Date: January 12, 2017

Property Owner: Brian & Angela Macom

Property Address: 36 Gainsborg Ave.

Block 803 Lot 17

WHEREAS, the applicant, the property owners, applied for a Building Permit and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Brian & Angela Macom filed an application on November 16, 2016 for a variance for permission to allow a 2nd floor addition at the above referenced property. The property is located in an R-75 Zoning District and pursuant to 235-9B of the Zoning Ordinance, the maximum allowable lot coverage is 20%. The proposed 2nd story addition increases the lot coverage to approximately 21.67 % thus requiring a variance of 1.67%,

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on December 8, 2016 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present or indicated that they had listened to tapes of the meeting: Tom Foristel, Steven Lowenthal, Paul Katz, Michael Strone, Paul Valentine, Ernest Fiore, and Mark Fisher; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

*Z16-026
Macom
1/12/17*

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

1. Applicant is proposing to replace an existing raised rear deck with a one story addition. The addition will be constructed within the existing footprint of the deck.
2. Applicant's property is located on a corner lot and is situated at a substantially lower elevation than the neighboring house located to the rear of the property. The neighboring property is also screened from view by a row of existing trees. In addition, the proposed addition complies with all setback requirements. Accordingly, the granting of the variance will not create a detriment to any adjacent properties.
3. There were no objections from neighbors.
4. The addition does not change the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow the construction of a one-story addition as indicated in the plans submitted with this application be, and the same is hereby granted;

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plan.

Z16-026
Macom
1/12/17

This variance shall lapse unless construction begins within one year from the date this variance is recorded in the Clerk's Office and is completed no more than two years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Ernest Fiore, seconded by Steven Lowenthal at the January 12, 2017 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal
and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Valentine

Rosemarie Lisumano
Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Z16-026
Macom
1/12/17